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**FILED**

Date 2/11/14 By Susan Saylor

8 **BEFORE THE**  
9 **STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2014-39

12 **RALPH RODRIGUEZ**  
13 **4920 E. Ashlan Ave.**  
**Fresno, CA 93726**

**ACCUSATION**

14 **Applicator License No. RA 45172**

15 Respondent.

16  
17 Susan Saylor ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the  
20 Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of  
21 Consumer Affairs.

22 2. On or about February 15, 2006, the Board issued Applicator License Number RA  
23 45172 to Ralph Rodriguez ("Respondent"). The license was in full force and effect at all times  
24 relevant to the charges brought herein and will expire on February 15, 2015, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that  
27 the Board may suspend or revoke a license when it finds that the holder, while a licensee or  
28

1 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu  
2 of a suspension may assess a civil penalty.

3 4. Code section 8625 states:

4 The lapsing or suspension of a license or company registration by operation of  
5 law or by order or decision of the board or a court of law, or the voluntary surrender  
6 of a license or company registration shall not deprive the board of jurisdiction to  
7 proceed with any investigation of or action or disciplinary proceeding against such  
licensee or company, or to render a decision suspending or revoking such license or  
registration.

### 8 STATUTORY PROVISIONS

9 5. Code section 8649 states:

10 Conviction of a crime substantially related to the qualifications, functions, and  
11 duties of a structural pest control operator, field representative, applicator, or  
registered company is a ground for disciplinary action. The certified record of  
conviction shall be conclusive evidence thereof.

12 6. Code section 8655 states:

13 A plea or verdict of guilty or a conviction following a plea of nolo  
14 contendere made to a charge substantially related to the qualifications, functions,  
15 and duties of a structural pest control operator, field representative, applicator, or  
16 registered company is deemed to be a conviction within the meaning of this article  
or Section 8568 of this chapter. The board may order the license or registration  
17 suspended or revoked, or may decline to issue a license, when the time for appeal  
18 has elapsed, or the judgment of conviction has been affirmed on appeal or when an  
order granting probation is made suspending the imposition of sentence, irrespective  
19 of a subsequent order under the provisions of Section 1203.4 of the Penal Code  
allowing the individual or registered company to withdraw a plea of guilty and to  
enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
accusation, information or indictment.

### 20 REGULATORY PROVISION

21 7. California Code of Regulations, Title 16, Section 1937.1 states:

22 For the purposes of denial, suspension or revocation of a license or company  
23 registration pursuant to Division 1.5 (commencing with Section 475) of the code, a  
24 crime or act shall be considered to be substantially related to the qualifications,  
25 functions or duties of a licensee or registered company under Chapter 14 of Division  
3 of the code if to a substantial degree it evidences present or potential unfitness of  
such licensee or registered company to perform the functions authorized by the  
license or company registration in a manner consistent with the public health, safety,  
or welfare. Such crimes or acts shall include, but not be limited to, the following:

26 (a) Any violation of the provisions of Chapter 14 of Division 3 of the  
27 code. . . .

28 (b) Commission of any of the following in connection with the practice  
of structural pest control:

- 1 (1) Fiscal dishonesty  
2 (2) Fraud  
3 (3) Theft  
4 (4) Violations relating to the misuse of pesticides.

5 **COST RECOVERY**

6 8. Code section 125.3 provides, in pertinent part, that the Registrar may request the  
7 administrative law judge to direct a licensee found to have committed a violation or violations of  
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
9 enforcement of the case.

10 **CAUSE FOR DISCIPLINE**

11 **(Conviction of a Crime)**

12 9. Respondent is subject to discipline under Code section 8649, in that on or about  
13 May 13, 2013, in the case of *People v. Ralph Rodriguez*, (Superior Court of California, Fresno  
14 County, Case No. F12908717), Respondent was convicted by the Court on his plea of nolo  
15 contendere of violating Penal Code section 496(a) (receiving stolen property), a misdemeanor.  
16 The crime is substantially related to the qualifications, functions or duties of an applicator. The  
17 circumstances of the crime were that on or about April 16, 2012, Respondent attempted to sell  
18 metal drainage lids to Bruno's Iron and Metal. The lids had been stolen from Fresno  
19 Metropolitan Flood Control District.

20 **OTHER MATTERS**

21 10. Code section 8620 provides, in pertinent part, that a Respondent may request that a  
22 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,  
23 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made  
24 at the time of the hearing and must be noted in the proposed decision. The proposed decision  
25 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

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1 11. Pursuant to Code section 8654, if discipline is imposed on Applicator's License  
2 Number RA 45172, issued to Respondent, then Respondent shall be prohibited from serving as an  
3 officer, director, associate, partner or responsible managing employee of a licensee, and any  
4 licensee which employs, elects, or associates Respondent shall be subject to disciplinary action.

5 **PRAYER**

6 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
7 and that following the hearing, the Structural Pest Control Board issue a decision:

8 1. Revoking or suspending Applicator's License Number RA 45172, issued to Ralph  
9 Rodriguez;

10 2. Revoking or suspending any other license issued to Ralph Rodriguez;

11 3. Prohibiting Ralph Rodriguez from serving as an officer, director, associate, partner,  
12 qualifying manager or responsible managing employee of any registered company during the  
13 period that discipline is imposed on Applicator's License Number RA 45172, issued to Ralph  
14 Rodriguez;

15 4. Ordering Ralph Rodriguez to pay the Structural Pest Control Board the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code section 125.3; and,

18 5. Taking such other and further action as deemed necessary and proper.

19 DATED: 2/11/14

20 Susan Saylor  
21 SUSAN SAYLOR  
22 Registrar/Executive Officer  
23 Structural Pest Control Board  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

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